

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**CARLOS PETERSON,**

**Plaintiff,**

**5:13-cv-2  
(GLS/ATB)**

**v.**

**COUNTY OF ONONDAGA,**

**Defendant.**

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**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

Carlos Peterson  
Pro Se  
08-B-3052  
Clinton Correctional Facility  
P.O. Box 2002  
Dannemora, NY 12929

**FOR THE DEFENDANT**

**NO APPEARANCE<sup>1</sup>**

**Gary L. Sharpe  
Chief Judge**

**MEMORANDUM-DECISION AND ORDER**

**I. Introduction**

Plaintiff *pro se* Carlos Peterson brings this action under 42 U.S.C. §

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<sup>1</sup> Service on the defendant has not yet been permitted as this case comes to the court as part of the preliminary review under 28 U.S.C. § 1915.

1983, alleging his constitutional rights were violated by defendant County of Onondaga. (See Compl., Dkt. No. 1.) In a Report-Recommendation and Order (R&R) filed January 7, 2013, Magistrate Judge Andrew T. Baxter recommended that the Complaint be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).<sup>2</sup> (See *generally* R&R, Dkt. No. 5.) Pending are Peterson's objections to the R&R. (See Dkt. No. 6.) For the reasons that follow, the R&R is adopted in its entirety.

## **II. Standard of Review**

Before entering final judgment, this court routinely reviews all report-recommendation and orders in cases it has referred to a magistrate judge. If a party has objected to specific elements of the magistrate judge's findings and recommendations, this court reviews those findings and recommendations *de novo*. See *Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484GLS, 2006 WL 149049, at \*6-7 (N.D.N.Y. Jan. 18, 2006). Where no party has filed an objection, only vague or general objections are made, or a party resubmits the same papers and arguments already considered by the magistrate judge, this court reviews the findings and

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<sup>2</sup> The Clerk is directed to append the R&R to this decision, and familiarity therewith is presumed.

recommendations of the magistrate judge for clear error. See *id.*, at \*4-5.

### **III. Discussion**

Peterson's "objections" consist of statements attacking his underlying state court conviction. (See Dkt. No. 6 at 1-2.) While Peterson clearly believes the state proceedings were flawed, Judge Baxter found his Complaint had no basis in law or fact, (see R&R at 2-9), a point, with respect to at least the law, Peterson concedes, (see Dkt. No. 6 at 2). As such, Peterson's "objections" are insufficient to require a *de novo* review as there is no reference to an error by Judge Baxter. Having found no clear error in the R&R, the court accepts and adopts Judge Baxter's R&R in its entirety.

### **IV. Conclusion**

**WHEREFORE**, for the foregoing reasons, it is hereby

**ORDERED** that Magistrate Judge Andrew T. Baxter's January 7, 2013 Report-Recommendation and Order (Dkt. No. 5) is **ADOPTED** in its entirety; and it is further

**ORDERED** that Peterson's Complaint (Dkt. No. 1) is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii); and it is further

**ORDERED** that the Clerk close this case; and it is further

**ORDERED** that the Clerk provide a copy of this Memorandum-  
Decision and Order to the parties by mail and certified mail.

**IT IS SO ORDERED.**

February 25, 2013  
Albany, New York

  
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Gary L. Sharp  
Chief Judge  
U.S. District Court